

ESTTA Tracking number: **ESTTA567650**Filing date: **10/28/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Intrepid Sportswear, Inc.		
Entity	Corporation	Citizenship	Washington
Address	1607 Dexter Avenue North No. 2A Seattle, WA 98109 UNITED STATES		

Attorney information	Nancy V. Stephens Foster Pepper PLLC 1111 3rd Avenue Suite 3400 Seattle, WA 98101 UNITED STATES stepn@foster.com Phone:2064478925
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Registration Subject to Cancellation

Registration No	3587241	Registration date	03/10/2009
International Registration No.	NONE	International Registration Date	NONE
Registrant	NOUVELITY NEDERLAND B.V. Riverstaete Building, NLX		

Goods/Services Subject to Cancellation


Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are cancelled, namely: PROFESSIONAL AND SPORTS CLOTHES, NAMELY, SHOES, SWEATSHIRTS, SWEATERS, VESTS, COATS, JACKETS, POLO SHIRTS, T-SHIRTS, PANTS, GO-KART SUITS AND HATS

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85428795	Application Date	09/21/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INTREPID SPORTSWEAR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/09/15 First Use In Commerce: 2002/09/15 Athletic uniforms; Baseball caps; Bottoms; Jerseys; Pants; Polo shirts; Shorts;Tops

Attachments	85428795#TMSN.jpeg(bytes) SEADOCS-#51331050-v1-Petition_for_Cancellation_Intrepid.pdf(91777 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nancy V. Stephens/
Name	Nancy V. Stephens
Date	10/28/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PETITION FOR CANCELLATION

Intrepid Sportswear, Inc.)	
)	
Petitioner)	Cancellation No. _____
)	
)	Registration No. 3587241
)	
Nouvelity Nederland B.V.)	
)	
Respondent/Registrant)	
)	

Intrepid Sports, Inc. is a Washington Corporation with its principal place of business at 1607 Dexter Avenue North No. 2A, Seattle, WA 98109 (“Petitioner”).

To the best of Petitioner’s knowledge, the name and address of the current owner of the above-identified registration is Nouvelity Nederland B.V., with a business address of Riverstaete Building, Amsteldijk 166 NL-1079 LH Amsterdam Netherlands (“Respondent”).

The above-identified Petitioner believes that it will be damaged by the above-identified registration and hereby petitions to cancel the same.

As grounds for this Petition, Petitioner alleges that:

1. Petitioner is informed and believes and on that basis alleges, that Respondent owns Registration No. 3587241 identified in the caption of this petition (“Respondent’s Registration”).

2. Petitioner has used the trademark INTREPID SPORTSWEAR in US interstate commerce since at least September 15, 2002 in connection with athletic uniforms, baseball caps, bottoms, jerseys, pants, polo shirts, shorts and tops.

3. Respondent's Registration was filed April 13, 2007 on the basis of International Registration No. 0932845 and reached registration on March 10, 2009. Respondent's filing date was more than 4 years after Petitioner started using its mark in interstate commerce.

4. Petitioner filed U.S. Application Serial No. 85428795 to register the mark INTREPID SPORTSWEAR in International Class 25 in connection with athletic uniforms, baseball caps, bottoms, jerseys, pants, polo shirts, shorts and tops on September 21, 2011. Such application was assigned Serial No. 85428795 ("Application").

5. The United States Patent and Trademark Office ("USPTO") Examining Attorney refused to register the Application citing a likelihood of confusion with Respondent's Registration No. 3587241.

6. The refusal of the Application indicates the USPTO deems the marks INTREPID SPORTSWEAR (Serial No. 85428795) and INTREPID (Registration No. 3587241) cannot co-exist on the register and tend to create market place confusion.

7. In the United States, trademark rights are acquired by use and the party who is the first to use has priority rights.

8. Respondent's Registration has not been registered for five years and has not reached incontestable status.

9. As between Petitioner and Respondent, Petitioner was the first to use the mark INTREPID in US interstate commerce in connection with apparel.

10. Petitioner has superior rights to the trademark INTREPID for apparel based on priority of use.

11. To continue to allow the registration of Respondent's Registration will impair Petitioner's ability to register its trademark for the goods covered by its application, a right to which Petitioner is entitled based on priority of use. Thus, Petitioner believes it will be damaged by the continuance of the registration.

WHEREFORE, and in accordance with Section 14 of the Trademark Act, Petitioner prays that Registration No. 3587241 be canceled and that this Petition for Cancellation be sustained in favor of the Petitioner.

Petitioner submits this Petition electronically and includes the required filing fee. Please charge any deficiency in payment to our Deposit Account No. 06-1629. Please address all communications regarding this Petition to:

Nancy V. Stephens
FOSTER PEPPER PLLC
1111 Third Avenue
Suite 3400
Seattle, WA 98101
(206) 447-8925

Petition to Cancel

Dated: October 28, 2013

/Nancy V. Stephens/
Nancy V. Stephens
FOSTER PEPPER PLLC
1111 3rd Avenue
Suite 3400
Seattle, WA 98101

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this paper has been served upon the following party by U.S. First Class Mail on this date:

NOUVELITY NEDERLAND B.V.

Avv. Elisabetta MARCHESI

Via Monte di pietà, 21

I-20121 Milano

Italy

legal@marchesistudiolegale.com>Serial #: 72161096

Dated: October 28, 2013

/Joanne Cramer/

Joanne Cramer

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